

October 21, 2002

Ms. Marlene Dortch
Secretary
Federal Communications Commission
450 12th Street S.W.
Washington, D.C. 20554

NOTICE OF EX PARTE PRESENTATION
Triennial Review, CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On October 1, 2002, Allegiance Telecom submitted an ex parte in the above referenced dockets discussing Verizon's "no facilities" policy and the negative impact that it has on the ability of CLECs to compete. We are writing today to update the record and advise the Commission of the UNE DS1 rejection rates Allegiance experienced in Verizon territories in the month of September:

<u>Market</u>	<u>Rejection Rate</u>
New Jersey	76.19%
Massachusetts	53.57%
Maryland	48.44%
Pennsylvania	46.51%
District of Columbia	29.03%
New York	28.17%
Virginia	11.9%

Significantly, the only Verizon state in which the UNE DS1 rejection rate was less than 15% is Virginia. Without drawing any conclusions, Allegiance is compelled to point out that Virginia is the only Allegiance state in which Verizon has a 271 application (WC 02-214) currently pending before the Commission. Allegiance testified about the no facilities issue before the Virginia State Corporation Commission in June and submitted comments on the issue in Verizon Virginia's 271 case before this Commission.

Any ILEC policy that results in the rejection of as many as one out of every four UNE orders placed by a CLEC due to no facilities cannot possibly be consistent with Section 251(c) of the Communications Act. In fact, it is only Verizon that engages in such anti-competitive behavior. Indeed, if an ILEC rejected one out of every four service orders from its end users, it would soon be out of business. The Commission must take action to rectify this problem and do so in such a way that does not encourage similar action by the other ILECs.

Allegiance urges the Commission to conclude, based on this and the other information that Allegiance submitted on October 1, 2002, that Verizon is not complying with its statutory obligation to provide non-discriminatory access to unbundled network elements and to clarify its UNE access rules to prohibit such conduct in the future.

Respectfully submitted,

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